

AMENDED IN SENATE MAY 2, 2006
AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1752

Introduced by Senator Migden

February 24, 2006

An act to amend Sections 1540 and 1564 of, and to add ~~Section~~ *Sections 1531.2 and 1531.5* to, the Code of Civil Procedure, relating to unclaimed property, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1752, as amended, Migden. Unclaimed property.

(1) Existing law provides for the escheat to the state of abandoned property, including certain deposits, accounts, shares, or other interests with a banking or financial organization, business association, or other holder of personal property. Existing law requires that all money received pursuant to these provisions, including the proceeds from the sale of property, be deposited in the Abandoned Property Account in the Unclaimed Property Fund. This fund is continuously appropriated to the Controller, and existing law requires the Controller to transfer all money in the fund in excess of \$50,000 to the General Fund at the end of each month, as specified. Existing law prohibits the payment of interest on claims on property in the fund. Existing law requires the Controller to record the names and last known addresses of each person in connection with the escheated property, as specified, and this record must be available to the public. Existing law, in the Budget Act of 2005, limits the use of money appropriated to the Controller for the purpose of providing general information to the public regarding the unclaimed property program.

This bill would delete the requirement that the Controller transfer all money in the Unclaimed Property Fund in excess of \$50,000 to the General Fund ~~and to record and make available specified names and addresses~~ *and would revise requirements to record and make available specified names and addresses*, as described above. The bill would provide that all interest earned on money in the fund be deposited in the fund. The bill would require the Controller to conduct outreach programs to owners to inform them about the possible existence of unclaimed property being held by the Controller, as specified. The bill would require that costs for administering the outreach programs be paid by an appropriation in the annual Budget Act and that these costs not exceed a specified amount. The bill would also require that interest be added on any claim paid to the owners of property for any period on or after January 1, 2007, that the property was on deposit in the Unclaimed Property Fund. The bill would provide that this interest is *to* be calculated according to a specific method, not to exceed 5%. By requiring General Fund money in a continuously appropriated fund to be spent for a new purpose, this bill would make an appropriation. The bill would require state and local agencies to make information, including confidential information, available to the Controller, if the information could reasonably be used to locate an owner of unclaimed property. By imposing new duties on local agencies this bill would create a state-mandated local program. The bill would provide that if a fee or charge is customarily made for the information requested by the Controller, the Controller shall pay it. The bill would also make nonsubstantive, technical changes.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1531.2 is added to the Civil Code, to*
2 *read:*

3 1531.2. *At the end of each month, the Controller shall record*
4 *the name and last known address of each person appearing from*
5 *the holders' report to be entitled to the escheated property*
6 *transferred to the Controller that month and the name and last*
7 *known address of each insured person or annuitant, and with*
8 *respect to each policy or contract listed in the report of a life*
9 *insurance corporation, its number, and the name of the*
10 *corporation. The record shall be available for public inspection*
11 *during normal business hours.*

12 ~~SECTION 1.~~

13 *SEC. 2. Section 1531.5 is added to the Code of Civil*
14 *Procedure, to read:*

15 1531.5. (a) The Controller shall conduct outreach programs
16 to owners to inform them about the possible existence of
17 unclaimed property being held by the Controller's office and
18 shall establish and maintain procedures to locate the owners of
19 unclaimed property received pursuant to this chapter.

20 (b) A notice to the apparent owner of an unclaimed property
21 account may be issued by the Controller to notify the apparent
22 owner of the existence of unclaimed property and to initiate a
23 claim. Neither a photograph nor an elected official's name shall
24 appear on notices issued under this section.

25 (c) (1) Notwithstanding any other provision of law, upon
26 request of the Controller, any state or local governmental agency
27 shall furnish to the Controller from its records the address or any
28 other identification or location information that could reasonably
29 be used to locate an owner of unclaimed property.

30 (2) If an address or other identification or location information
31 requested by the Controller is confidential under any law or
32 regulation, it shall be furnished to the Controller, provided that
33 neither the Controller nor any officer, agent, or employee of the
34 Controller may use or disclose this information except as may be
35 necessary to locate the owner of unclaimed property.

36 (3) If a fee or charge is customarily made for the information
37 requested by the Controller, the Controller shall pay that
38 customary fee or charge.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 1540 of the Code of Civil Procedure is
3 amended to read:

4 1540. (a) Any person, excluding another state, who claims an
5 interest in property paid or delivered to the Controller under this
6 chapter may file a claim to the property or to the net proceeds
7 from its sale. The claim shall be on a form prescribed by the
8 Controller and shall be verified by the claimant.

9 (b) The Controller shall consider each claim within 180 days
10 after it is filed and may hold a hearing and receive evidence. The
11 Controller shall give written notice to the claimant if he or she
12 denies the claim in whole or in part. The notice may be given by
13 mailing it to the address, if any, stated in the claim as the address
14 to which notices are to be sent. If no address is stated in the
15 claim, the notice may be mailed to the address, if any, of the
16 claimant as stated in the claim. No notice of denial need be given
17 if the claim fails to state either an address to which notices are to
18 be sent or an address of the claimant.

19 (c) The Controller shall add interest at the rate of either 5
20 percent or the annual yield rate of the Pooled Money Investment
21 Account, whichever is lower, to the amount of any claim paid to
22 the owner under this section for the period that the property was
23 on deposit in the Unclaimed Property Fund. No interest shall be
24 payable for any period prior to January 1, 2007. Any interest
25 required to be paid by the state pursuant to this section shall be
26 computed as simple interest, and not as compound interest. The
27 interest rate shall be established on August 1 of each year. If the
28 annual yield of the Pooled Money Investment Account for the
29 immediately preceding fiscal year is greater than 5 percent, then
30 the Controller shall establish the interest rate at 5 percent. If the
31 annual yield of the Pooled Money Investment Account for the
32 immediately preceding fiscal year is less than 5 percent, then the
33 Controller shall establish the interest rate at the annual yield of
34 the Pooled Money Investment Account.

35 (d) For the purposes of this section, “owner” means the person
36 who had legal right to the property prior to its escheat, his or her
37 heirs, his or her legal representative, or a public administrator
38 acting pursuant to the authority granted in Sections 7660 and
39 7661 of the Probate Code.

1 (e) Following a public hearing, the Controller shall adopt
2 guidelines and forms that shall provide specific instructions to
3 assist owners in filing claims pursuant to this article.

4 ~~SEC. 3.~~

5 *SEC. 4.* Section 1564 of the Code of Civil Procedure is
6 amended to read:

7 1564. (a) All money received under this chapter, including
8 the proceeds from the sale of property under Section 1563, shall
9 be deposited in the Unclaimed Property Fund in an account titled
10 “Abandoned Property.” All interest earned upon money
11 deposited in the fund shall be deposited in the fund.

12 (b) Notwithstanding Section 13340 of the Government Code,
13 all money in the Abandoned Property Account in the Unclaimed
14 Property Fund is hereby continuously appropriated to the
15 Controller, without regard to fiscal years, for expenditure in
16 accordance with law in carrying out and enforcing the provisions
17 of this chapter, including, but not limited to, the following
18 purposes:

19 (1) For payment of claims allowed by the Controller under the
20 provisions of this chapter.

21 (2) For refund, to the person making the deposit, of amounts,
22 including overpayments, deposited in error in the fund.

23 (3) For payment of the cost of appraisals incurred by the
24 Controller covering property held in the name of an account in
25 the fund.

26 (4) For payment of the cost incurred by the Controller for the
27 purchase of lost instrument indemnity bonds, or for payment to
28 the person entitled thereto, for any unpaid lawful charges or costs
29 which arose from holding any specific property or any specific
30 funds which were delivered or paid to the Controller, or which
31 arose from complying with this chapter with respect to the
32 property or funds.

33 (5) For payment of amounts required to be paid by the state as
34 trustee, bailee, or successor in interest to the preceding owner.

35 (6) For payment of costs incurred by the Controller for the
36 repair, maintenance, and upkeep of property held in the name of
37 an account in the fund.

38 (7) For payment of costs of official advertising in connection
39 with the sale of property held in the name of an account in the
40 fund.

1 (8)

2 For transfer to the Inheritance Tax Fund of the amount of any
3 inheritance taxes determined to be due and payable to the state by
4 any claimant with respect to any property claimed by him or her
5 under the provisions of this chapter.

6 (c) Notwithstanding subdivision (b), costs for administering
7 the outreach activities pursuant to Section 1531.5 shall be paid by
8 an appropriation in the annual Budget Act from the Unclaimed
9 Property Fund. The costs of administering outreach activities
10 pursuant to Section 1531.5 shall be limited to no more than
11 one-half of 1 percent of the property received in the Unclaimed
12 Property Fund in the prior calendar year.

13 ~~SEC. 4.~~

14 *SEC. 5.* If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.